

1 THE HONORABLE Marc L. Barreca
2 Chapter 13
3 Location: Port Orchard
4 Date of Hearing: September 18, 2013
5 Time: 1:00 p.m.
6 Response Date: September 11, 2013
7
8

7 **UNITED STATES BANKRUPTCY COURT**
8 **Western District of Washington at Seattle**

9 **IN RE:**) **CH.13 CASE NO. 11-17331-MLB**
10)
11 **EDDIE EARL PAYNE, JR.,**) **MOTION AND DECLARATION FOR**
12 **ALICIA ANN PAYNE,**) **TURNOVER OF TITLE AND FOR**
13 **Debtors.**) **TERMS RE: HSBC/Kawasaki**
14 _____)
15

16 MOTION FOR TURNOVER OF TITLE AND TERMS
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18

19 COMES NOW, debtors, EDDIE EARL PAYNE, JR. and ALICIA ANN PAYNE ,
20 by and through their attorney, DAVID CARL HILL, and moves this court for an order
21 compelling respondent, HSBC, to release title to Stephen Payne for the 2008 Vulcon 900
22 Kawasaki motorcycle, and for attorney fees in the amount of \$750.00 if the matter is
23 uncontested or such additional fees as the Court deems appropriate if the matter is contested.
24

25 This motion is based upon the information which follows:

26 I. PARTIES AND JURISDICTION
27

28 The debtors filed a petition for relief under Title 11 United States Code. Each
29 respondent's identity and status is indicated above and the residence or principal place of
30 business of each respondent is as follows:
31

32 HSBC/Kawasaki
33 Attn: Bankruptcy Department
34 P.O. Box 5213
35 Carol Stream, IL 60197
36

37 LAW OFFICE OF
38 DAVID CARL HILL,
39 Hill Law.Com, P.S.
40 2472 BETHEL RD SE, SUITE A
41 PORT ORCHARD, WA 98366
42 (360) 876-5015 FAX: (360) 895-1491
43

1 || Jurisdiction of this court over the parties and subject matter of this action is based
2 || upon 11 U.S.C.

II. 11 U.S.C. SECTION 362

4 On June 21, 2011, the debtors above filed a Chapter 13 bankruptcy under 11 U.S.C.
5 in connection there with, debtors filed a plan for the repayment of creditors. That plan
6 provided specifically that debtor's son, Stephen Payne, would maintain the payments to
7 HSBC for the Kawasaki motorcycle. Debtors were merely cosigners on that loan for their
8 son. Stephen Payne made all payments pursuant to the contract and the obligation, together
9 with contractual interest which has been paid in full. On March 28, 2013, counsel directed
10 a letter to HSBC requesting a release of the title. To date HSBC has ignored said request and
11 title remains encumbered. This is created a hardship for debtors' son as it restricts his ability
12 to insure and sell the motorcycle.

13 WHEREFORE, the debtors pray that this Court compel HSBC to immediately
14 relinquish title to the 2008 Vulcan 900 Kawasaki and for a further award against HSBC for
15 attorney fees in the amount of \$750.00 if the matter is uncontested or such additional fees as
16 the Court deems appropriate if the matter is contested.

17 DATED this August 12th, 2013.

/s/ David Carl Hill
DAVID CARL HILL, WSBA #9560
Attorney for Debtors

28 Motion and Declaration for Turnover of Title and Terms

- 2 -

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DECLARATION OF EDDIE EARL PAYNE, JR.

I, Eddie Earl Payne, Jr., declare under penalties of perjury that the following is true and correct:

4 I am one of the debtors in the above entitled matter. We cosigned a loan with HSBC
5 for our son in connection with the purchase of the 2008 Vulcan 900 Kawasaki. In our
6 Chapter 13 Plan we specified that our son would continue to make the payments on that
7 vehicle outside of the plan. He fulfilled the terms of the contract many months ago. However
8 HSBC refuses to surrender the title to him. We requested that our attorney contact HSBC to
9 request the title. To date neither we nor our son have received any response or the title.
10 HSBC has no grounds for withholding the title since they were paid in full in conformance
11 with the terms of the contract. As result of their negligence, we have incurred attorneys fees
12 to compel the surrender of title.

13 For the foregoing reasons I respectfully request that HSBC/Kawasaki be
14 compelled to turn over the title and pay the attorneys fees associated with this motion.

Respectfully submitted,

/s/ Eddie Payne Jr.
Eddie Earl Payne, Jr

28 Motion and Declaration for Turnover of Title and Terms

- 3 -

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